

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86333078
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86333078/large
LITERAL ELEMENT	JACK BLACK'S LUMBERJACK AMBER ALE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>The Examining Attorney has refused registration under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), asserting that the Applicant's JACK BLACK'S LUMBERJACK AMBER ALE mark ("Applicant's Mark") so resembles the mark in U.S. Registration No. 2,674,658 for LUMBERJACK OATMEAL STOUT (the "Cited Mark") that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of Applicant and registrant. Applicant respectfully disagrees with the Examining Attorney's refusal.</p> <p>First, Applicant is grateful to the Examining Attorney for the discussion of January 6, 2016 in which various issues were discussed, and it was established that "evidence of online websites using 'LUMBERJACK'". . . <u>would</u> suffice as "evidence showing current and actual use in the marketplace" (that is, that the statement in the Office Action stating that</p>	

websites would not be sufficient to show current and actual use was erroneous.

Next, in determining whether a likelihood of confusion exists between marks, the Examining Attorney may consider, among other things, the strength of the marks. Trademark Manual of Examining Procedure (“TMEP”) § 1207.01 (4th ed. 2005); *In re E. I. Du Pont DeNemours & Co.*, 177 U.S.P.Q.563, 567 (C.C.P.A. 1973). With regard to how much protection a mark receives, the strength of a mark is often the “central issue[,] as it will determine the breadth of the mark’s protection.” *CBS Inc. v. Liederman*, 33 U.S.P.Q.2d 1333, 1335 (S.D.N.Y. 1994). A weak mark is less likely to leave an impression or be remembered by the relevant purchasing public, and is less likely to be associated with a single source. As a result, it is less likely to be confused. *Monarch Licensing, Ltd. v. Ritam Int’l Ltd., Inc.*, 24 U.S.P.Q.2d 1456, 1461 (S.D.N.Y. 1992). Thus, if the common elements shared between marks are words or terms that are weak, consumer confusion is less likely. 2 J. Thomas McCarthy, McCarthy’s on Trademark and Unfair Competition, § 23:48, 23-141 (4th ed. 2004).

Evidence of third-party use falls under the sixth Du Pont factor – the “number and nature of similar marks in use on similar goods.” *In re Du Pont*, 476 F.2d at 1361.

Here, the Cited Mark is weak, because the word “Lumberjack” is commonly used in connection with goods related to beer and ale. As such, “Lumberjack” is not a strong mark with respect to such goods.

Applicant hereby submits numerous examples of U.S. trademark registrations and ongoing and current use of the term “Lumberjack” or images suggesting Lumberjacks (for example, Paul Bunyan) used in commerce in connection with goods relating to food, beer and ale (*see* Exhibits 1 through 12). In particular, Exhibit 1 is a printout from a website entitled, “Inky Beer” that includes the words, “As you may know, lumberjacks love beer. As to a nod to their love of beer, ***they have many beers named after them***” (emphasis added). Exhibit 10 is an article referencing

the use of a lumberjack character in a television advertisement used to sell Schlitz beer as far back as the 1970s. Numerous breweries currently sell beers and ales that include the word “Lumberjack” in their names, or include images of lumberjacks in connection with beer and other alcoholic beverages.

Also, as evidenced by Exhibits 8 through 12, numerous other goods that are related to beer and ale are sold using either the word “Lumberjack” or an image of a lumberjack; these include beer glasses, beer bottle openers, beer mugs and similar goods.

Applicant acknowledges that the Examining Attorney is not bound by prior USPTO decisions. Yet, as set forth in TMEP § 1207.01(d)(iii), evidence of third party use of the same mark on the same and similar goods establishes “that the consuming public is exposed to third-party use of similar marks on similar goods ... and ‘is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.’” TMEP § 1207.01(d)(iii), *citing Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee*, 1772, 396 F.3d 1369, 1373, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005).

Accordingly, the additional attached evidence of third party use is proof of how marks containing the term “Lumberjack” or images of lumberjacks are used in the marketplace. *See, e.g., Tektronix, Inc. v. Daktronics, Inc.*, 189 U.S.P.Q. 693, 694-95 (C.C.P.A. 1976); *Plus Prods. v. Infinity-Kist Foods, Inc.*, 220 U.S.P.Q. 541, 544 (TTAB. 1983). The fact that all of these uses of “Lumberjack” can coexist in the marketplace, and have coexisted for many years, demonstrates that (1) the Cited Mark is weak and diluted in connection with goods relating to beer and ale, and is entitled to only a narrow scope of protection; and (2) numerous marks containing the word “Lumberjack” or images of lumberjacks for goods relating to beer and ale, including Applicant’s Mark, can coexist in the marketplace without causing confusion.

Next, Applicant respectfully submits that no likelihood of confusion can exist because, as argued previously, the term “Lumberjack” is not the dominant portion of

Applicant's Mark, and thus, a consumer viewing the mark JACK BLACK'S LUMBERJACK AMBER ALE will thus not consider the middle term "Lumberjack" as a source identifier. *See, e.g., Citigroup Inc. v. Capital City Bank Group, Inc.*, 637 F.3d 1344, 1356, 98 U.S.P.Q.2d 1253, 1261 (Fed. Cir. 2011).

In fact, the TTAB and United States Court of Appeals for the Federal Circuit have held numerous times that where two marks share a common word or words, there is no likelihood of confusion when one mark contains an additional dominant portion. *See, e.g., Citigroup, Inc.*, 637 F.3d at 1356, 98 U.S.P.Q.2d at 1261 (holding CAPITAL CITY BANK not likely to cause confusion with CITIBANK, because "CAPITAL" **is the dominant element of the first mark, which gives it a geographic connotation as well as a look and sound distinct from the second**); *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1245, 73 U.S.P.Q.2d 1350, 1356-57 (Fed. Cir. 2004) (holding THE RITZ KIDS for clothing and RITZ for kitchen textiles not likely to cause confusion, because, *inter alia*, THE RITZ KIDS creates a different commercial impression); *In re Shawnee Milling Co.*, 225 U.S.P.Q. 747, 749 (TTAB 1985) (holding GOLDEN CRUST for flour, and ADOLPH'S GOLD'N CRUST and design for coating and seasoning for food items, not likely to cause confusion, noting that, because "GOLDEN CRUST" and "GOLD'N CRUST" are highly suggestive as applied to the respective goods, **the addition of "ADOLPH'S" is sufficient to distinguish the marks**); *In re S.D. Fabrics, Inc.*, 223 U.S.P.Q. 54, 55-56 (TTAB 1984) (holding DESIGNERS/FABRIC (stylized) for retail fabric store services, and DAN RIVER DESIGNER FABRICS and design for textile fabrics, not likely to cause confusion because of the descriptive nature of "DESIGNERS/FABRIC" and "DESIGNER FABRICS," **the addition of "DAN RIVER" is sufficient to avoid a likelihood of confusion**) (emphasis added).

The above-mentioned cases are highly dispositive in the current situation, because, as is the case here, they address the issue of the addition of a dominant portion of the Mark before words that would otherwise likely be unregistrable. Here, the dominant portion of Applicant's Mark is the first part, "Jack Black's" and the word "Lumberjack" is diluted.

A customer viewing the mark would identify Applicant, Jack Black International, as the source.

The Examining Attorney alleges in that the presence of “Jack Black’s” at the beginning of Applicant’s Mark is not dispositive, as “the additional component does not substantially alter the meaning such that the respective marks share the same connotation and overall commercial impression. *A consumer may still associate the marks as sharing a single source, and believe that registrant’s mark is also from the Jack Black International Brand*” (Office Action, page 3). However, Applicant respectfully disagrees, and submits that absent a source identifier such as “Jack Black’s,” a consumer will not associate a mark containing the term “Lumberjack” with any particular brand, since the term “Lumberjack” is so diluted (as evidenced by the attached Exhibits). In fact, customer seeing Applicant’s Mark JACK BLACK’S LUMBERJACK AMBER ALE would associate the Mark with Applicant based at least in part on the fact that the first two words, “JACK BLACK’S” are the dominant portion of the mark. Thus, Applicant respectfully submits that no likelihood of confusion exists between Applicant’s Mark and the Cited Mark.

In view of the above, Applicant respectfully submits that the instant application should therefore be approved and passed to publication.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)

ORIGINAL PDF FILE	evi_1084150162-20160111174203643047_.01050928.PDF
CONVERTED PDF FILE(S) (44 pages)	\\TICRS\EXPORT16\IMAGEOUT16\863\330\86333078\xml9\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\863\330\86333078\xml9\RFR0003.JPG
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DESCRIPTION OF EVIDENCE FILE	Exhibits 1 through 12
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use "AMBER ALE" apart from the mark as shown.
PAYMENT SECTION	
NUMBER OF CLASSES	1
FEE FOR FAILURE TO SATISFY TEAS PLUS OR TEAS RF REQUIREMENTS	50
TOTAL FEES DUE	50
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Rachel J. Lin/
SIGNATORY'S NAME	Rachel J. Lin
SIGNATORY'S POSITION	Attorney of record, New York State bar member
SIGNATORY'S PHONE NUMBER	212 216-8000
DATE SIGNED	01/11/2016
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Jan 12 09:53:45 EST 2016

TEAS STAMP	USPTO/RFR-XXX.XX.XX.XXX-2 0160112095345298932-86333 078-5505982c021b4a7f9f06d 3f97e86fee07393fadfc47654 9a0704487b6669c5df-DA-866 2-20160111174203643047
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Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 07/31/2017)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **86333078** JACK BLACK'S LUMBERJACK AMBER ALE(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86333078/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Examining Attorney has refused registration under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), asserting that the Applicant's JACK BLACK'S LUMBERJACK AMBER ALE mark ("Applicant's Mark") so resembles the mark in U.S. Registration No. 2,674,658 for LUMBERJACK OATMEAL STOUT (the "Cited Mark") that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of Applicant and registrant. Applicant respectfully disagrees with the Examining Attorney's refusal.

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and ales that include the word “Lumberjack” in their names, or include images of lumberjacks in connection with beer and other alcoholic beverages.

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In view of the above, Applicant respectfully submits that the instant application should therefore be approved and passed to publication.

EVIDENCE

Evidence in the nature of Exhibits 1 through 12 has been attached.

Original PDF file:

[evi_1084150162-20160111174203643047_.01050928.PDF](#)

Converted PDF file(s) (44 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

[Evidence-10](#)

[Evidence-11](#)

[Evidence-12](#)

[Evidence-13](#)

[Evidence-14](#)
[Evidence-15](#)
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[Evidence-35](#)
[Evidence-36](#)
[Evidence-37](#)
[Evidence-38](#)
[Evidence-39](#)
[Evidence-40](#)
[Evidence-41](#)
[Evidence-42](#)
[Evidence-43](#)
[Evidence-44](#)

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use "AMBER ALE" apart from the mark as shown.

FEE(S)

Fee(s) in the amount of \$50 is being submitted.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Rachel J. Lin/ Date: 01/11/2016

Signatory's Name: Rachel J. Lin

Signatory's Position: Attorney of record, New York State bar member

Signatory's Phone Number: 212 216-8000

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

RAM Sale Number: 86333078

RAM Accounting Date: 01/12/2016

Serial Number: 86333078

Internet Transmission Date: Tue Jan 12 09:53:45 EST 2016

TEAS Stamp: USPTO/RFR-XXX.XX.XX.XXX-2016011209534529

8932-86333078-5505982c021b4a7f9f06d3f97e

86fee07393fadfc476549a0704487b6669c5df-D

A-8662-20160111174203643047

EXHIBIT 1

Inky Beer

Bringing beer and art together
[stay updated via rss](#)

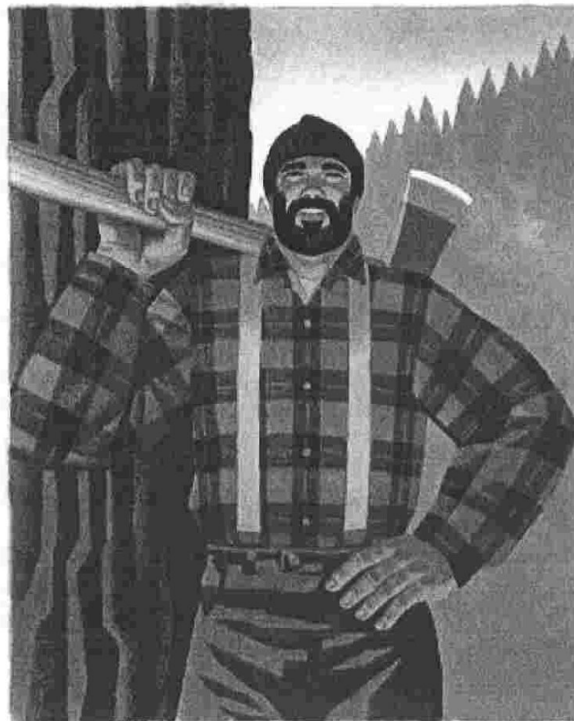
Posts Tagged 'lumberjack beer'

Inky Beer Factoid: November 5

Posted: November 5, 2013 in [Beer Art](#), [Beer Education](#)

Tags: [1953](#), [beer](#), [lumberjack beer](#), [lumberjacks](#), [paul searls](#)

[0](#)



(<http://inkybeer.files.wordpress.com/2013/11/20190885.jpg>) On this day in 1953, lumberjack, Paul Searls (<http://www.historyorb.com/day/november/5>), sawed a 32" log in 86.4 seconds. As you may know, lumberjacks love beer. As a nod to their love of beer, they have many beers named after them.



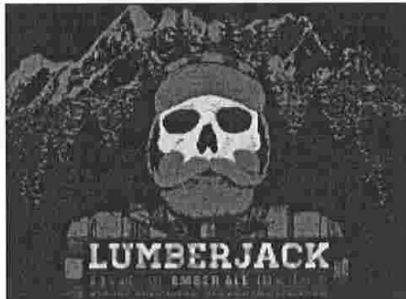
(<http://inkybeer.com/2013/11/05/inky-beer-factoid->

november-5/6953310078_7940e861ec/)



(<http://inkybeer.com/2013/11/05/inky-beer-factoid->

[november-5/lumberjack-2/](#))



(<http://inkybeer.com/2013/11/05/inky-beer-factoid-november->

[5/lumberjack/](#))



(<http://inkybeer.com/2013/11/05/inky-beer-factoid-november-5/index-18/>)



(<http://inkybeer.com/2013/11/05/inky-beer-factoid-november->

[5/lumberjack2/](#))



(<http://inkybeer.com/2013/11/05/inky-beer-factoid-november->

[5/lumberjacklabel/](#))

[Create a free website or blog at WordPress.com.](#) | [The Greyzed Theme.](#)

EXHIBIT 2

facebook

Sign Up

Email or Phone

Password

Log In

Keep me logged in

Forgot your password?

JOIN THE ALL TRAIL

Lumberjack Brewing Co., LLC

is on Facebook.

To connect with Lumberjack Brewing Co., LLC, sign up for Facebook today.

Sign Up Log In

Create Page

Recent

2015

2014

Lumberjack Brewing Co., LLC

Place to Eat/Drink

Timeline About Events Photos More

PEOPLE

★★★★★

414 likes

124 visits

ABOUT

21830 284th Ave SE

Maple Valley, Washington

(425) 432-0121

Closed Now

Closed until Saturday 12:00PM - 5:00PM

Price Range: \$\$

Menu

http://www.lumberjackbrewingcompany.com/

PHOTOS

Lumberjack Brewing Co., LLC

January 1 at 4:38pm · 🌐

Happy New Year Lumberjacks! Hope y'all had an awesome end to 2015. Bringing in the new year we have our new Double IPA on tap. Swing by and have a taste tomorrow Saturday the 2nd.

Like Comment

Lumberjack Brewing Co., LLC

December 25, 2015 at 7:17pm · 🌐

We are open this Saturday the 26th. Swing by for a taste of Hobart. Open noon to 5 pm.

Like Comment

Myrna Burnett, Coleen Thompson, Allen Storkel and 5 others like this.

Lumberjack Brewing Co., LLC

December 24, 2015 at 6:11am · 🌐

Marry Christmas Eve to all! We hope everyone has a wonderful Christmas this year. Today we will b open from 10:30-12 for growler fills only. If u need a last minute gift, swing by and pick up a growler or some cool apparel. 30% off all apparel today only! 🎁

Like Comment

Seth Meisel, Paige Kasai, Brendon Pedro and 9 others like this. Top Comments ▾

Lumberjack Brewing Co., LLC

Yes we will be open Saturday the 26th. Our road is still in a little bit of disrepair, so please be advised! After the holidays will have more time to spend on road repair.

1 · December 24, 2015 at 8:03am

Lee Miller

Will you be open Saturday?

December 24, 2015 at 7:32am

Lumberjack Brewing Co., LLC

December 17, 2015 at 7:04am · 🌐

Howdy all. Due to some extreme weather our road has become unsafe. We will be closed this Saturday the 21st for maintenance. We will let y'all know when the necessary repairs have been made. Cheers lumberjacks! Stay tuned for some new seasonal releases!



VIDEOS



VISITOR POSTS

**Jennifer Edelhauser**

May 3, 2015 at 8:43pm

Are you really on 284th in Hobart?

Like · Comment · Share

1 2

**Pamela S Wayland**

February 11, 2015 at 6:38am

What's going on Lumberjacks - got something new brewing?

Like · Comment · Share

1 1

**Pamela S Wayland**

February 9, 2015 at 8:14pm

Can't hardly wait for the first production kegs!
Wonder what will be their favorite?

Like · Comment · Share

1

REVIEWS

5.0 ★

5.0 of 5 stars

10 reviews

People talk about: fresh hop ipa and great beer

**Chris Benny**

5★ We found this place accidentally, and it's great! Good beer and people, farm setting. Yes you're on a gravel road to get there, you're not lost!

October 3, 2015 ·

1

**Frank Wayland**

5★ Great beer, fun and comfortable place to drink it, and growlers to go! What more could you ask for? Keep growing and prosper! Love the line up of different beers and I look forward to any and all new things ya do!

September 7, 2015 ·

1



Like



Comment

Andy Arnold, Kasey Walters and 3 others like this.

Top Comments ▾

**Myrna Burnett** Nuts! I was looking forward to pizza and beers

1 · December 17, 2015 at 8:28am

**Andy Arnold** Really, that's not a LIKE, it's a DIS-LIKE. But I certainly noticed the road had taken a beating. Good luck getting it fixed and see you next year.

1 · December 18, 2015 at 10:26am

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EXHIBIT 3

3ULUB

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Beer Label of the Month: Three Heads Bromigo

Keith / September 4, 2014

Three Heads Brewing is from Rochester NY, and they have a lineup of great labels.



Those are just a few. Their web site isn't the best for viewing the label art but check out a [Google Image search for Three Heads Brewing](#). Lots of good stuff there. My favorite of their labels is the Bromigo Smoked Maple Amber Ale.



According to Urban Dictionary a Bromigo is "A friend so close to you he might as well be your brother." In this case the bromigos are the mythical lumberjack Paul Bunyan and his blue oxen Babe. The bromigos are having some flapjacks and beer to prepare for a long day of chopping down and hauling trees.

Nearby Westwood California is one of the many towns that claims to be Paul Bunyan's hometown, so I'm of course familiar with the folklore of the oversized lumberjack. Maybe Paul and Babe spent some time in Rochester as well.

Share this:



September 4, 2014 in Beer.

Related posts



The Best

2015 Photo Contest Submissions

EXHIBIT 4



Home > Lowdown > BrewDog Blog > Lumberjack Breakfast Stout

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IN THIS SECTION

LUMBERJACK BREAKFAST STOUT

 MENU

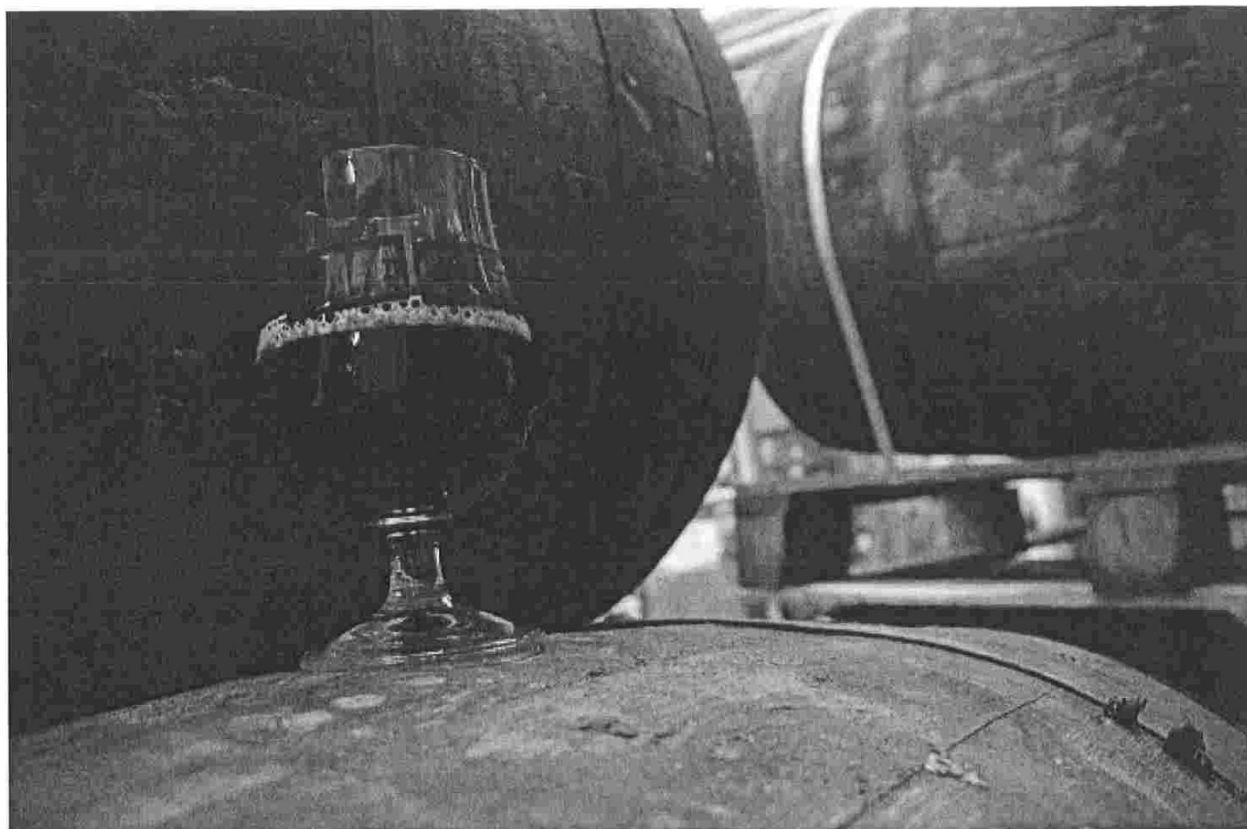
CART: 0

EQUITY FOR PUNKS IV

 **COMMENTS (14)**

 **STORY TAGS (2)**

Barrel Ageing Fraserburgh

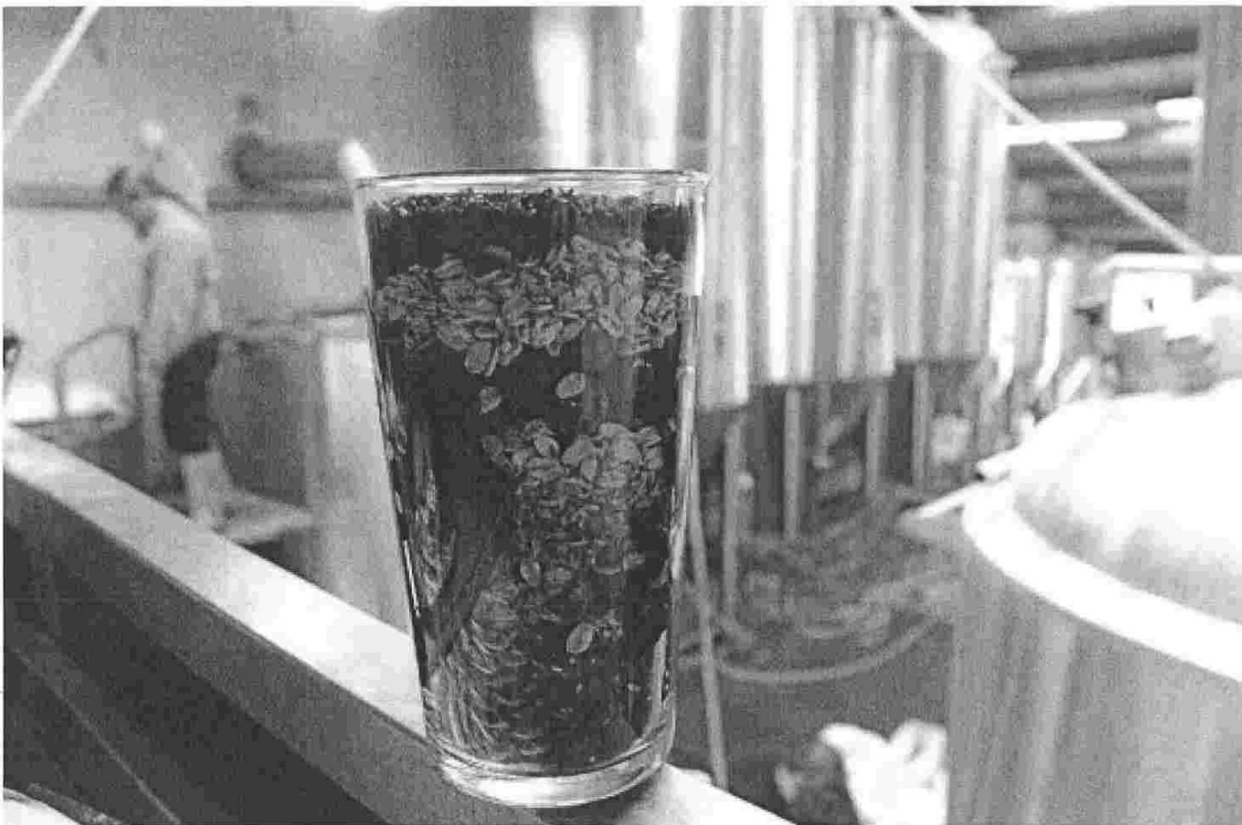


Back in May 2012, we invited MasterChef winner Tim Anderson, and runner-up Tom Whitaker, up to the Dystopian Puppet Hobby Centre to spend the day brewing with us. The beer we created then spent the subsequent 21 months ageing in oak barrels. It is something very special.



Lumberjack Breakfast Stout is a huge, intense, barrel-aged beast. The beer took its inspiration from what an actual proper Lumberjack may have for breakfast: coffee, oatmeal, maple syrup, blueberries, bacon and potentially bourbon. All of these inspirations found their way into the beer as we used oats, speciality and smoked malts, copious amounts of blueberries, maple syrup, spicy Willamette hops, and yes, bacon. It is a breakfast stout after all...

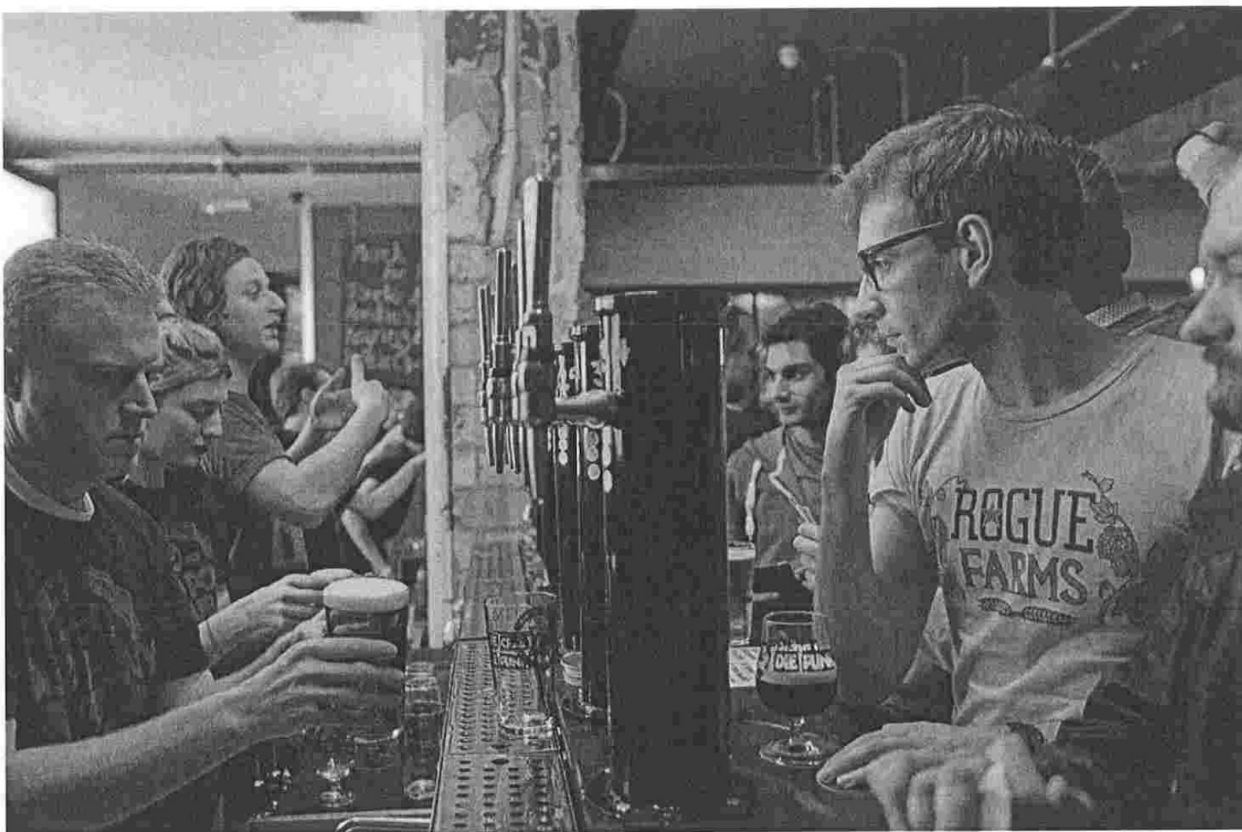
Lumberjack Breakfast Stout weighs in at a substantial 15.2% ABV and has been aged for over a year and a half in a mixture of rum, bourbon and whisky barrels.



Complex and varied aromas intertwine with each other; treacle, toffee apple, liquorice and brandy all feature, with rich chocolate torte and cafe latte running through the background.

Big flavours of chocolate, toffee and honeycomb dominate, with smoke, nut, liqueur chocolate, light coffee, aniseed, and molasses layered on top. A berry tartness runs through the whole thing. The blueberries and maple syrup combine in such a way that none dominate, but balance and lend tartness, sweetness and smokiness in perfect harmony.

The body has some viscosity but doesn't cloy; good attenuation and the blueberry tartness lift the beer from the palate, giving a light, almost chocolate milkshake feel.



Lumberjack Breakfast Stout is a very special beer. It is exclusively available in keg in all our BrewDog bars at the moment. It was a very small batch so head to a BrewDog bar to ensure you don't miss out.

Tried it? Let us know what you think below.

 **SHARE THIS**

JOIN THE DISCUSSION

COMMENTS (14)

KOSSO

17th February, 2014 1:39pm

Excellent. I was just asking the Bristol Dogs about bacon beers and WHY WE DIDNT DO ONE! :)

EXHIBIT 5



MONDAY NIGHT
BREWING

[\(HTTP://MONDAYNIGHTBREWING.COM/#](http://mondaynightbrewing.com/#)

**Author:
Jonathan**

[BREWING \(HTTP://MONDAYNIGHTBREWING.COM/CATEGORY/BREWING/\)](http://mondaynightbrewing.com/category/brewing/)

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LUMBERJACK STOUT (THE LABEL, NOT THE BEER) **(HTTP://MONDAYNIGHTBREWING.COM/LUMBERJACK-** **STOUT-LABEL-NOT-BEER/)**



By [Jonathan \(http://mondaynightbrewing.com/author/Jonathan/\)](http://mondaynightbrewing.com/author/Jonathan/)

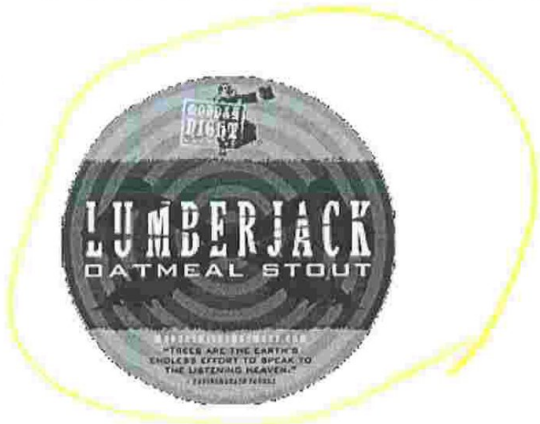
Posted in [Blog \(http://mondaynightbrewing.com/category/blog/\)](http://mondaynightbrewing.com/category/blog/), [Labels](http://mondaynightbrewing.com/category/labels/)

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[\(http://mondaynightbrewing.com/category/new-brewn/\)](http://mondaynightbrewing.com/category/new-brewn/)

on 03.18.2007

3 Comments (http://mondaynightbrewing.com/lumberjack-stout-label-not-beer/#disqus_thread)



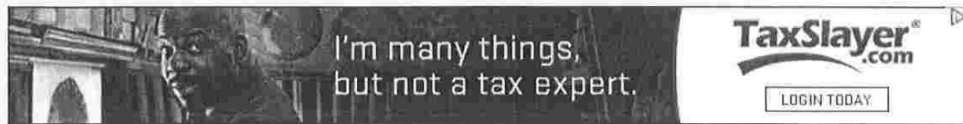
(http://bp2.blogger.com/_3HbaziuR0ws/Rf2MRt6NxwI/AAAAAAAAAFc/9cG1BOiv4-o/s1600-h/lumberjack1.gif) Yes, I realize that I'm posting during March Madness. Yes, I realize that Tennessee just spanked UVA (suck on that, Joel). But that doesn't mean that we're not hard at work.

Thanks to Eli's (<http://thefoureyedbeergeek.blogspot.com/>) suggestion, I've been working on another version of the Lumberjack [Oatmeal] Stout label. One that doesn't involve a falling tree (<http://mondaynightbrewery.blogspot.com/2007/03/lumberjack-stout-newest-addition-to-mnb.html>), but instead, axes. I still tried to incorporate the tree, but honestly, I have no idea what the response to this thing will be like. So. What's the response to this thing like? Are we there yet? C'mon, I can take it.

ASHEVILLE INFLATES OUR ALREADY MONSTROUS EGOS (HTTP://MONDAYNIGHTBREWING.COM/ASHEVILLE- INFLATES-OUR-ALREADY/)



By Jonathan (<http://mondaynightbrewing.com/author/Jonathan/>)



Home > Breweries > United States: Michigan > Wiltse's Brew Pub

Wiltse's Paul Bunyan Ale



Brewed by **Wiltse's Brew Pub**

Style: English Pale Ale

Oscoda, Michigan USA

Serve in English pint



send corrections | shelftag | edit barcodes

RATINGS: 4 MEAN: 3.3/5.0 WEIGHTED AVG: 2.97/5 ABV: -

COMMERCIAL DESCRIPTION

A big malty brew made primarily from two row barley malts and a touch of caramel malt. The malty body is properly balanced with the skillful use of Cascade and Kent Golding Hops



Ticked By



3.1 AROMA 6/10 APPEARANCE 3/5 TASTE 7/10 PALATE 3/5 OVERALL 12/20
roder60 (1289) - Pittsburgh, Pennsylvania, USA - AUG 14, 2013

Poured light amber color with slight offwhite head. Aroma tad hoppy and toffeish. Flavor likewise solid sweet malt base with slight resinous hop presence. Solid traditional ale flavor. Overall, worth a try.



3.6 AROMA 6/10 APPEARANCE 4/5 TASTE 7/10 PALATE 3/5 OVERALL 16/20
JRock72 (605) - MAY 29, 2011

Growler from the brewpub. Poured clear golden brown with little head that retained. Aroma of both malt and grassy hops. Aroma is very similar to the taste. Very well balanced and very well done session ale.



3.2 AROMA 7/10 APPEARANCE 1/5 TASTE 6/10 PALATE 4/5 OVERALL 14/20
deyholla (9151) - Minneapolis, Minnesota, USA - AUG 10, 2009

On tap at Wiltse's Brew Pub. Poured cloudy peach with orange hue and an off-white head. Really was a quite unattractive beer. Aroma was well balanced with hop and malt notes. Flavor was mainly hops, leading to a pine flavor, with slight undertones of sweet malts.



3.3 AROMA 7/10 APPEARANCE 3/5 TASTE 7/10 PALATE 3/5 OVERALL 13/20
letrim65 (402) - Seattle, Washington, USA - JUN 8, 2004

On tap at the brew pub. This one was the star of the group I tasted at Wiltse's. Cloudy copper color. Apple and malt, with hints of hops in the nose. Mildly carbonated with apple and malt flavors and a gentle hop finish. Nice drinking.

Tick this beer for your profile



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Blue Cat Off the Rail Pale Ale 71

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**Paul
Bunyan**

Tall
Tales
Brewing
Company
Pale Ale
-
American

TOTAL
224

MONTHLY
0

UNIQUE
200

YOU
0

5.7%
ABV

29
IBU



(3.4)

178
Ratings

Added
11/24/12

The legend of Paul Bunyan continues to be told throughout North America. With his giant ax and brute strength the fable of Paul Bunyan is true to the North American logger. Paul's beer is hoppy and bold, with a smooth and clean finish.
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Mike B. is drinking a Paul



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Loyal Drinkers (?)



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Burnt Hickory Brewery



UAB 77 Pale Ale Utopias ...
Boston Beer Company (Samuel A...)



Too Good For Touchy
Burnt Hickory Brewery



Curiosity Eleven
Tree House Brewing Company

EXHIBIT 6

EXHIBIT 7

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Bangor's Beer Festival

Festivals & Fairs



Sea Dog Brewing

104 reviews

 26 Front St
 Bangor, ME 04401
 (207) 947-8004

From: Saturday, Jun 21, 1:00 pm
To: 5:00 pm

[Add to Calendar](#)

 \$10.00 - \$50.00 · [Get Tickets](#)


What/Why:

"Guess what?! We had to get a bigger tent this year! This year we will be featuring 24+ Maine breweries at
 Bangor's Beer Festival - Tap Into Summer!

Featuring some of Maine's most notable breweries, including Geaghan Brothers Brewing Company, Sea Dog Brewing Company, and Penobscot Bay Brewery. In addition to providing samples of their tasty products, brewers will also have time to mingle and a few will present their special new brews and suggested pairings.

2014 Ticket Details -

VIP Ticket includes: advance entry to event, BBQ lunch, tastings with our signature Paul Bunyan sample glass, admission to general session, time with the brewers and TBD Keynote Speaker(s). (VIP DD Ticket includes features listed below plus BBQ lunch.) VIP Session is from noon to 1:00 p.m. Only available with advance purchase - \$50 & VIP DD Ticket is \$20.

General Session Ticket includes: admission to the general session with ten 4oz beer tastings with our signature Paul Bunyan sample glass. General Session is from 1:00 p.m. to 5:00 p.m. \$25 in advance, \$30 day of event.

Designated Driver Ticket includes: admission to the tasting session, special deals & discounts package, and endless gratitude & appreciation! VIP DD Ticket is \$20; General Session is \$10.

2014's Participating Breweries:

Andrew's Brewing Co
 353 High Street, Lincolnville, ME 04849 - 207-763-3305
[AndrewsBrewPub.com](#)

Andrews Brewing brews four different ales, Summer Ale (seasonal) Brown Ale, English Pale Ale and St Nick's Porter. All our beers are sold in Maine and Vermont in select locations. Based out of in Lincolnville, ME.
 Atlantic Brewing Company

15 Knox Road, Bar Harbor, ME 04609 - 207-288-2337
[atlanticbrewing.com](#)

We have been brewing for 20 years, striving to produce distinctive, well crafted beers. You can find our products throughout Maine and in other selected states. We offer free tours and tasting at our brewery from May to October.

Banded Horn Brewing Co

32 Main Street, Building 13-W, Suite 102, Biddeford, ME 04005 - 207-944-5026
[BandedHorn.com](#)

Banded Horn Brewing Company is a new craft brewery in the historic Pepperell Mill in Biddeford, Maine. Our philosophy is simple; to brew beer that appeals to every beer drinker, with styles as varied and unique as the people we serve.
 Baxter Brewing

130 Mill Street, Lewiston, ME 04240 - 207-333-6769

Who's in? 1 response


Steff D.

Sounds Cool 1 response


Christine L.

Submitted by


Steff D.

Nearby Businesses


Eagles Nest Restaurant

128 reviews

Seafood


The Fiddlehead Restaurant

91 reviews

American (New), American (Traditional)


Moe's Original Bar B Que

74 reviews

Barbeque, Chicken Wings, Soul Food


Colony Motel

16 reviews

Hotels


Yoshi Japanese Restaurant

45 reviews

Japanese, Sushi Bars

[More Nearby](#)

baxterbrewing.com

Launched in January, 2011, Baxter Brewing Co. is the first craft brewery in New England to can its entire line of beers. Located in the historic Bates Mill in Lewiston, Maine, Baxter currently distributes its flavorful and unique craft beers statewide in Maine, Massachusetts, New Hampshire & Vermont. Belfast Bay Brewing Co

14 Cliff Lane, Belfast, ME 04915 - 207-338-4216

belfastbaybrewing.com

Our mission is for EVERYONE to try Belfast Bay Lobster Ale and McGovern's Oatmeal Stout from Belfast Bay Brewing Co. in Belfast, Maine. We are a family owned Micro Brewery, distributing two beers, Lobster Ale and McGovern's Oatmeal Stout, in 12oz bottles, 1/6 barrels and kegs in 13 states and 4 countries!
Bigelow Brewing Company

473 Bigelow Hill Road, Skowhegan, ME 04976 - 207-399-6262

facebook.com/bigelowbrew...

Bigelow Brewing Company is a small family owned startup located in central Maine. In keeping with our new motto, "Out with the horses, in with the brew," our equine facility has recently been renovated into a 3bbl brewery which offers a tasting room for sampling and growler fills. Our current features are two superbly hand crafted ales, Lying Bastard Pale Ale and Dementia Dog Double IPA with additional brews in the works.
Black Bear Microbrew

19 Mill Street, Orono, ME 04473 - 207-899-9123

blackbearmicrobrew.com

Black Bear Microbrew is Orono's only microbrewery and is family owned. We hand-craft each batch using the highest quality ingredients and the greatest care to bring you the finest quality products. We hope you enjoy them as much as we do! *Founding Partner for the Festival
Boothbay Craft Brewery

301 Adams Pond Road, Boothbay, ME 04537 - 207-633-3411

boothbaycraftbrewery.com

Our beers are all handcrafted with only the finest ingredients including but not limited to passion, character, integrity, responsibility, true friendships, collaborations, community, and most importantly,... an unwavering positive attitude! All these ingredients create "Imperial Attitude Ales" of many styles, tastes, strengths, and origins,... and boy do they taste it!
D.L. Geary Brewing Co

38 Evergreen Drive, Portland, ME 04103 - 207-878-2337

gearybrewing.com

Geary's product line includes seven full time products and three seasonal specialties, all in various package sizes, and has distribution to fifteen states along the eastern seaboard and as far west as Ohio.
Fatty Bampkins

967 Quaker Ridge Rd, South Casco, ME 04077 - 207-655-3292

fattybampkins.com

Traditional Irish/ English style draft hard Cider. 100% Maine apples, 6 different varieties all using raw unpasteurized cider. Fermented for 4 months in bourbon and rye barrels. No added sugars, no artificial flavoring 100% natural. Also 100% naturally gluten free.
Friars' Brewhouse

55 Orcutt Mountain Rd, Bucksport, ME 04416 - 207-947-3770

facebook.com/Friars.Brew...

Friars' Brewhouse is located on the 34 acre grounds of St. Elizabeth Monastery perched on the side of Orcutt Mountain. The Franciscan Brothers of St. Elizabeth of Hungary are the friars that produce these artisan brews.
Funky Bow Brewery and Beer Company

21 Ledgewood Lane, Lyman, ME 04002 - 207-409-6814/207-423-9348

funkybowbeercompany.com

We are a small 6.5 BBL brewery specializing in clean American ales. We are nestled on a 20 acre farm, come join us for a brew!!
Geaghan Brothers Brewing Company

570 Main Street, Bangor, ME 04401 - 207-945-3730

geaghanspub.com

Founded in 2011, Geaghan Brothers Brewing Company is a local, family owned Microbrewery serving the community of Bangor, Maine through Geaghan's Pub - Bangor's oldest, continuous, family owned Irish Pub. *Festival founding partner
Gritty McDuff's

396 Fore Street, Portland, ME 04103 - 207-446-8966

grittys.com

Established in 1988 as Maine's Original Brewpub-the first to open it's doors in the state of Maine since prohibition-Gritty's has been at the forefront of Maine's leading craft beer industry introducing fresh English ales either on tap or on cask everyday for the last 20+ years! With the long wooden tables and cobblestone streets, the ambiance matches those of the hometown pubs in England and the people are just as merry! Come in for a pint, leave a fan for life. Gritty's...for what ales ya!

EXHIBIT 8

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Paul Bunyan LumberJack Axe Blue Ox ...

16oz Drinking Glass

QUICK VIEW

\$17.99 \$12.95



LumberJack Holding Axe Cartoon Drink...

16oz Drinking Glass

QUICK VIEW

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Bemidji Minnesota Greetings Drinking ...

16oz Drinking Glass

QUICK VIEW

\$17.99 \$12.95



I Ate A 96er Drinking Glass

16oz Drinking Glass

QUICK VIEW

\$17.99 \$12.95



Paul Bunyan LumberJack Isolated Cart...

16oz Drinking Glass

QUICK VIEW

\$17.99 \$12.95



Paul Bunyan LumberJack Carrying Axe...

16oz Drinking Glass

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Paul Bunyan LumberJack Shield Carto...

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Camp Totems Drinking Glass

16oz Drinking Glass

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\$17.99 \$12.95



Ole and Nelse those swedish brother D...

16oz Drinking Glass



LumberJack Holding Axe Circle Cartoo...

16oz Drinking Glass



Lumberjack Holding Axe Shield Retro ...

16oz Drinking Glass



Paul Bunyan LumberJack Circle Cartoo...

16oz Drinking Glass

1/11/2016

Paul Bunyan Pint Glasses | Paul Bunyan Beer & Drinking Glasses - CafePress

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Hackensack Loon Shop Drinking Glass

16oz Drinking Glass

QUICK VIEW

\$17.99 \$12.95

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052_death Drinking Glass

16oz Drinking Glass

QUICK VIEW

\$17.99 \$12.95

QUICK VIEW

\$17.99 \$12.95



LumberJack Holding Axe Shield Cartoo...

16oz Drinking Glass

QUICK VIEW

\$17.99 \$12.95

QUICK VIEW

\$17.99 \$12.95



I Love Hackensack Minnesota Drinking...

16oz Drinking Glass

QUICK VIEW

\$17.99 \$12.95

QUICK VIEW

\$17.99 \$12.95



Hackensack US Flag Drinking Glass

16oz Drinking Glass

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\$17.99 \$12.95



Hackensack Established 1903 Drinking...

16oz Drinking Glass

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Hackensack License Plate Drinking Gla...

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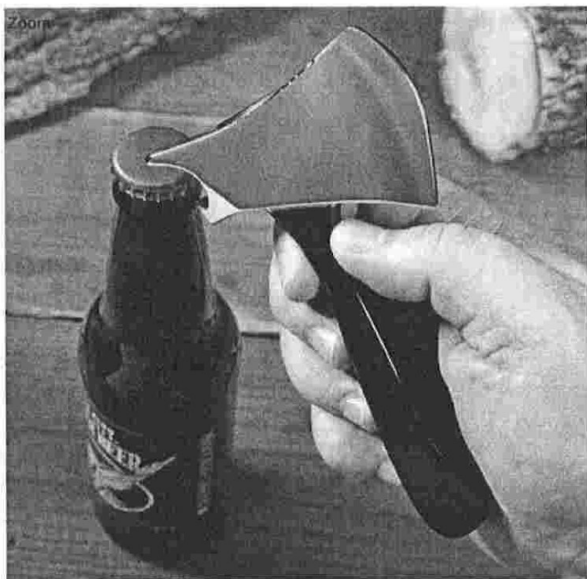
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EXHIBIT 9

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Lumberjack Beer Bottle Opener
Mouse Over Image or Click to Enlarge


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Lumberjack Beer Bottle Opener

Be the first to [Write a Review](#)

Suggested Retail: \$14.00

Regular Price: \$9.95 (You Save 36%)

SALE: \$8.95

✓ In Stock and Ready to Ship!

Want it delivered Wednesday, January 13? Order it in the next 19 hours, 33 minutes with Next Day shipping.

Add to Cart



Email to a Friend



Save to Gift Registry



May We Also Suggest



Shotgun Shell Cast Iron Bottle Opener



Round Whiskey Stones 6 Piece Set w/ FREE Tumblers (Engravable)



So Fancy Zebra Purse Liquor Flask

Lumberjack Beer Bottle Opener Details:

Timber! You'll be ready to knock back a forest full of beers with the help of this lumberjack-inspired beer bottle opener. This unique bottle opener is forged with a heavy-duty, stainless steel head, made in the shape of a classic axe, with a notch cut into the back for opening brew caps in the woods, at the steel mill, or in your own home. A real wood handle makes this beer bottle opener a perfect gift for any man who doesn't like to get far from his tools. Measuring 6.25" X 3.5" X 0.6", this rugged piece of cap popping machinery will keep those beer bottles falling for years to come.

Features of our Lumberjack Beer Bottle Opener:

- Made of stainless steel with wood handle
- Classic axe shape
- Opens standard beer bottle caps
- Measures 6.25" X 3.5" X 0.6"

Item #4233

Shipping: [Shipping rates and policies](#)

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Skull of Doom Wall Mounted Bottle Opener
\$19.95



No Flush Toilet Mug
\$14.95



Wooden Mojito Cocktail Muddler
\$7.95



Diva High Heel Stainless Steel Bottle Opener
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Midtown Regal Crested Whiskey Glass
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\$49.95

Lumberjack Beer Bottle Opener 0 Rating (based on 0 reviews)

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EXHIBIT 10

The ad that made Schlitz infamous

April 06, 2008 | By Phil Rosenthal

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2417  0

You can have your 3 a.m. White House  crisis call. You can bring Harry Caray back from the dead as a raving coot. You can even have the one in which pals are riding in their Volkswagen, blithely gabbing away like they're in an old Dockers ad, until they get plowed into by another vehicle.

But the scariest TV commercial of the last 40 years was for Schlitz beer, which Woodridge-based Pabst Brewing has announced it's bringing back to a few select locations on Chicago's North Side, using the classic 1960s Schlitz recipe, no less.




Ask: Antique Roadshow

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There are many reasons Schlitz, the No. 2 beer in America behind only Budweiser as late as 1976, virtually vanished years ago.

To save money , the brewing process was altered, changing the taste and making Schlitz the New Coke of beers. The brewer also was hurt by labor trouble. Eventually Schlitz, which for years touted itself as "the beer that made Milwaukee famous," was acquired by Detroit's Stroh Brewery Co., which itself shut down in 1999.

But in charting how Schlitz went flat, don't underestimate the contribution of the TV commercials it ran in the late 1970s in a desperate bid to hold on to market share but which had entirely the opposite effect.

It's gone down in popular lore as the Drink Schlitz or I'll Kill You campaign, an example of being too edgy and not too sharp all at once.

In advertising circles, it's held up as a cautionary tale. You know, cut through the clutter but don't stab the client -- that sort of thing.

You should be able to find an example on YouTube.com. Search for: Schlitz wilderness man.

In retrospect, the 1977 ad from Chicago's Leo Burnett USA that's online could be mistaken for a "Saturday Night Live" parody, along the lines of Spud, the potato beer that made Boise famous.

At best, it's stupid. At worst, it's a brand killer that squandered much, if not all, of the goodwill of earlier ads that embedded lines such as "When you're out of Schlitz, you're out of beer" and "Go for the gusto" into the national consciousness.

An off-screen, clearly uneasy person suggests taking away a rugged mountain-man/lumberjack-type's Schlitz so he can try another beer, causing the cougar at the guy's side to rear up and growl as if poised to attack until Mr. Menacing Drinker calms the cat down.

"Down baby, I can take care of this," the glaring Not Quite the Unabomber says in a gruff voice that has you noticing the ax within his grasp rather than the fact he's apparently delicate enough to bother pouring his beer from a can into a glass mug with the Schlitz logo on it even when he's out in the wilderness. "You want to take away my Schlitz? You want to take away my gusto? Hah. You're the first person that ever made me laugh."

Then he says to the cougar, "Say hello to your lunch."

The cougar again growls.

You can't help but wonder how much of the product was downed before execs signed off on that one.

Forget the tag, which is "When you don't have Schlitz, you don't have gusto," capped by the Paul Bunyan/Ted Bundy stand-in holding his can of Schlitz between his thumb and forefinger just so and adding, "You don't have beer."

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They might as well have said, "This blood's for you."

Homeward bound: Bill Bund is coming back to Chicago, where he will be senior vice president and managing director for the ABC Television Network's Central Sales Division. Bund, who rose through the ranks of first ABC-owned

EXHIBIT 11

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PRODUCT DETAILS

Heft a cold one in this 22 oz. ceramic stein with gold trim. A great "usable" alternative to the trophy. Make any day Oktoberfest whether with this impressive stein on the shelf or in-hand. Cheers!

- Measures 6.75" tall, 3.75" diameter base, 3" diameter rim
- Dishwasher safe
- Not recommended for microwave

- IMPORTED
- PID: 1376665096

ABOUT THE DESIGN

Design Name: LumberJack Holding Axe Cartoon



Illustration of a lumberjack sawyer forester standing holding an axe on looking up to side on isolated white background done in cartoon style.

See more designs from: RetroStockArtist

Created on September 14, 2014 at 1:36 AM

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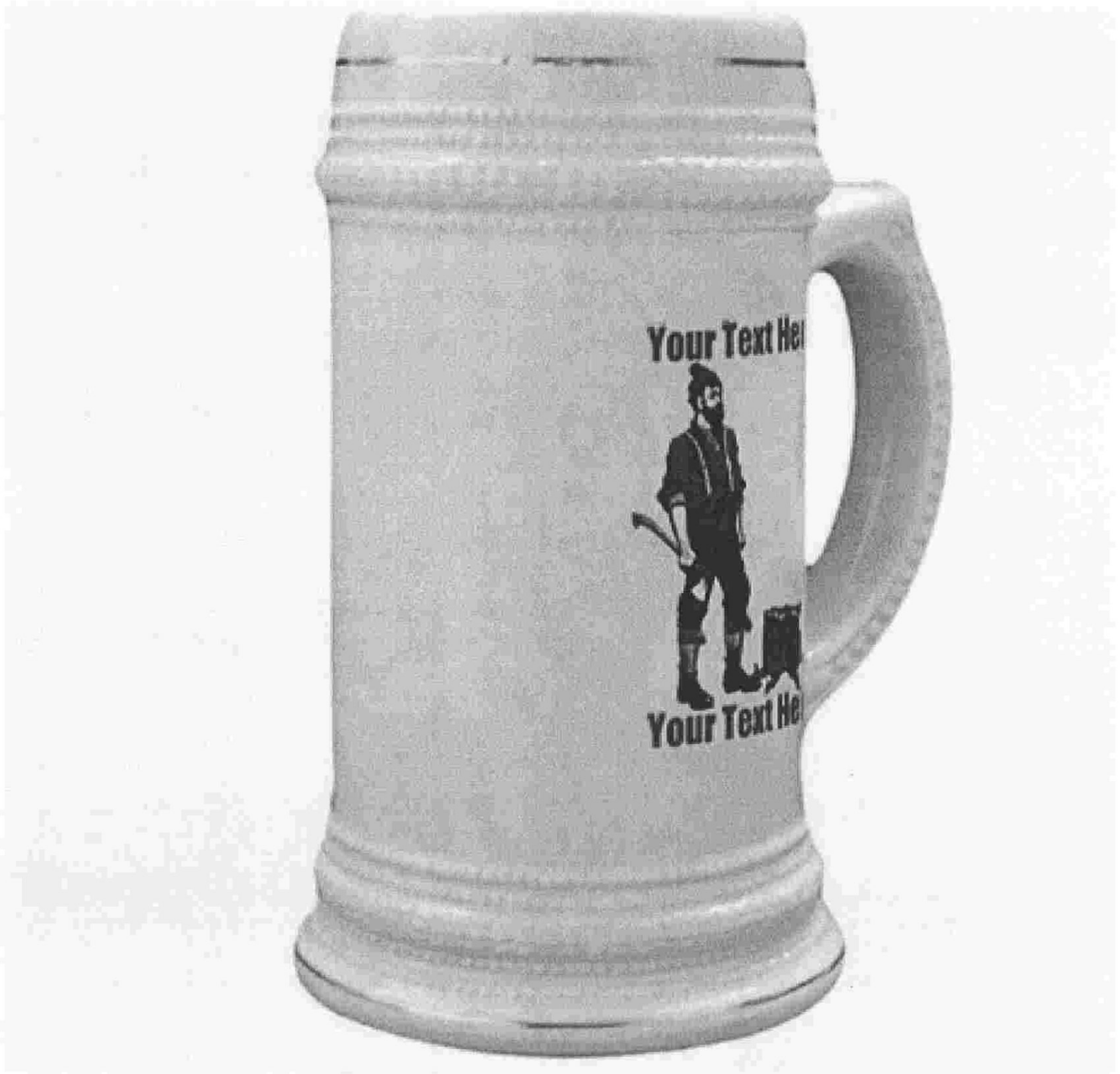
EXHIBIT 12

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- IMPORTED
- PID: 1308066288

ABOUT THE DESIGN

Design Name: Lumberjack CUSTOM TEXT

 You can personalize this lumberjack design with your name or message.

Designs from: Trendy Tee Shirts

Created on May 31, 2014 at 11:31 AM

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